

**S/N 10/726,054**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: David Johnston

Examiner: Sheila B. Smith

Serial No.: 10/726,054

Group Art Unit: 2617

Filed: December 2, 2003

Docket: 884.B57US1

Title: ROAMING APPARATUS, SYSTEMS, AND METHODS

Customer No. 21186

---

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In response to the Final Office Action mailed August 25, 2006, the Applicant requests review of the final rejection in the above-identified application.

No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason stated below.

There is clear error in the §102(e) rejection. The primary reference (Raghavan) used to reject the claims does not teach or describe these elements of Claim 1:

- 1) coupling a plurality of receivers to a first frequency reference to communicate with a first station over a corresponding plurality of signal paths;
- 2) selectively coupling one of the plurality of receivers to a second frequency reference to communicate with a second station over a signal path not included in the plurality of signal paths

Thus, a prima facie case of anticipation has not been established, and the rejection under §102(e) should be reversed.

**§102 Rejection of the Claims**

Claims 1-23 were rejected under 35 U.S.C. §102(e) as being anticipated by Raghavan et al. (U.S. 2003/0134607).

The rule under 35 U.S.C. §102 is well settled that “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). MPEP §2131.

Applicant asserts that the Office has not shown that Raghavan discloses the identical limitations as claimed.

In the Advisory Action dated December 6, 2006, the Office stated “Raghavan discloses in paragraph 0026:

“A transmission system in accordance with the present invention can include a plurality of receivers and a cross-channel interference canceller coupled to each of the receivers for receiving signals from the high frequency channels. Each of the plurality of receivers receives signals from one of a plurality of transmission bands. One receiver receives signals from the base band channel and the remaining receive signals from higher frequency channels.” [emphasis added]

Applicant agrees this is an accurate quote from Raghavan. Moreover, Applicant asserts that the quote totally supports Applicant’s position, i.e. that Raghavan fails to disclose the identical limitations as claimed, because the quote says that each receiver receives signals from one of a plurality of transmission bands. It reiterates by saying that one receiver receives signals from the base band channel, and the remaining receive signals from higher frequency channels. There is absolutely nothing in this quote saying that one receiver (of a plurality of receivers coupled to a first frequency reference to communicate with a first station) may be selectively coupled to a second frequency reference to communicate with a second station, as recited in claim 1.

These identical limitations appear in Applicant’s independent claim 8.

Very similar limitations also appear in independent claims 13 and 20.

Because Raghavan does not teach the identical invention claimed, independent claims 1, 8, 13, and 20 (as well as all claims depending from them) should be allowable.

**Conclusion**

Reconsideration and withdrawal of the rejection of claims 1-23 under §102 as a result of this Pre-Appeal Brief Request for Review is respectfully requested. Since no *prima facie* case of anticipation has been established with respect to the rejected claims, the Applicant respectfully submits that all claims are allowable, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney Ann M. McCrackin (located in Minneapolis, Minnesota) at (612) 349-9592 or Applicant's below-signed attorney (located in Phoenix, Arizona) to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

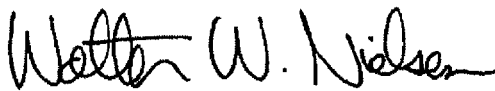
Respectfully submitted,

DAVID JOHNSTON

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(602) 298-8920

By /



Walter W Nielsen  
Reg. No. 25,539